



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-831]

Fresh Garlic from the People's Republic of China: Preliminary Intent to Rescind the New Shipper Review of Jinxiang Kaihua Imp & Exp Co., Ltd.

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce ("the Department") is conducting a new shipper review of Jinxiang Kaihua Imp & Exp Co., Ltd. (Kaihua) regarding the antidumping duty order on fresh garlic from the People's Republic of China ("the PRC"). The period of review ("POR") is November 1, 2013 through April 30, 2014. The Department has preliminarily determined that Kaihua's new shipper sale is not *bona fide*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: (INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*.)

FOR FURTHER INFORMATION CONTACT: Milton Koch, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2584.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 2014, the Department published notice of initiation of a new shipper review of fresh garlic from the People's Republic of China for the period November 1, 2013 through

April 30, 2014.¹ On December 15, 2014, the Department extended the deadline for the preliminary results to June 3, 2015.²

Scope of the Order

The merchandise covered by this order is all grades of garlic, whether whole or separated into constituent cloves.³ The subject merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings: 0703.20.0000, 0703.20.0005, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, and 2005.99.9700. A full description of the scope of the order is contained in the Preliminary Decision Memorandum. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description is dispositive.

Methodology

The Department is conducting this review in accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (“the Act”), and 19 CFR 351.214. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance’s centralized electronic service system (“ACCESS”). ACCESS is available to registered users at <http://access.trade.gov> and in the Department’s Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the

¹ *See Fresh Garlic from the People’s Republic of China: Initiation of Antidumping Duty New Shipper Review; 2013-2014*, 79 FR 46250 (August 7, 2014).

² *See* the Department Memorandum “Fresh Garlic from the People’s Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty New Shipper Review,” dated December 12, 2014.

³ *See* the Department Memorandum, “Decision Memorandum for the Preliminary Results of the Antidumping Duty New Shipper Review of Fresh Garlic from the People’s Republic of China: Jinxiang Kaihua Imp & Exp Co., Ltd.” dated concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum), for a complete description of the Scope of the Order.

Internet at <http://enforcement.trade.gov/frn/index.html>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Rescission of Kaihua

For the reasons detailed in the Preliminary Decision Memorandum, the Department preliminarily finds that Kaihua's sale under review is not *bona fide*, and therefore, does not provide a reasonable or reliable basis for calculating a dumping margin. The Department reached this conclusion based on the totality of the circumstances, including: (a) the atypical nature of Kaihua's price; (b) Kaihua's failure to demonstrate that it received payment for the sale; and (c) the atypical circumstances surrounding the sale. As result, the Department is preliminarily rescinding the new shipper review of Kaihua.

Disclosure and Public Comment

The Department will disclose the analysis performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit written comments by no later than 30 days after the date of publication of these preliminary results of review.⁴ Rebuttals, limited to issues raised in the written comments, may be filed by no later than five days after the written comments are filed.⁵

Any interested party may request a hearing within 30 days of publication of this notice.⁶ Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made,

⁴ See 19 CFR 351.309(c).

⁵ See 19 CFR 351.309(d).

⁶ See 19 CFR 351.310(c).

parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.⁷

The Department intends to issue the final results of this new shipper review, which will include the results of its analysis of issues raised in any such comments, within 90 days of publication of these preliminary results, pursuant to section 751(a)(2)(B)(iv) of the Act.

Assessment Rates

Upon completion of the final results, pursuant to 19 CFR 351.212(b), the Department will determine, and the U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If we proceed to a final rescission of the new shipper review, Kaihua's entries will be assessed at the rate entered.⁸ If we do not proceed to a final rescission of the new shipper review, pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific assessment rates. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*.⁹

Although the Department intends to rescind the new shipper review for Kaihua, the Department is currently conducting an administrative review for the POR November 1, 2013, through October 31, 2014, which could include the entries subject to this new shipper review. Accordingly, we will instruct CBP to continue to suspend entries during the period November 1, 2013, through October 31, 2014, of subject merchandise exported by Kaihua until CBP receives instructions relating to the administrative review covering the period November 1, 2013, through October 31, 2014.

⁷ See 19 CFR 351.310(d).

⁸ See 19 CFR 351.212(c).

⁹ See 19 CFR 351.106(c)(2).

Cash Deposit Requirements

Effective upon publication of the final rescission or the final results of this NSR, we will instruct CBP to discontinue the option of posting a bond or security in lieu of a cash deposit for entries of subject merchandise by Kaihua. If the Department proceeds to a final rescission of the new shipper review, the cash deposit rate will continue to be the PRC-wide rate. If we issue final results of the new shipper review for Kaihua, we will instruct CBP to collect cash deposits, effective upon the publication of the final results, at the rates established therein.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

The Department is issuing and publishing these results in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act and 19 CFR 351.214 and 351.221(b)(4).

Dated: May 29, 2015.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Methodology
- V. Recommendation

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